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08 APR 2008

JONES DAY
222 EAST 41ST STREET
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In re Application of	:	
FORRER, et al.	:	
U.S. Application No.: 10/591,547	:	DECISION ON PETITION
PCT No.: PCT/IB04/01882	:	
Int. Filing Date: 09 June 2004	:	UNDER 37 CFR 1.497(d)
Priority Date: 07 March 2003	:	
Attorney Docket No.: 8932-1318-999	:	
For: CONTAINER AND CARRIER SYSTEM	:	

This decision is in response to applicant's "Petition to Correct Inventorship Under 37 C.F.R. §1.48(a)" filed 06 July 2007 in the United States Patent and Trademark Office (USPTO). The petition is being treated under 37 CFR 1.497(d). Applicant has provided payment of the \$130.00 petition fee.

BACKGROUND

On 09 June 2004, applicant filed international application PCT/IB04/01882 which claimed priority to an earlier application filed 07 March 2003. A copy of the International Application was forwarded to the United States Patent and Trademark Office (USPTO) from the International Bureau (IB) on 06 October 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 07 September 2006.

On 01 September 2006, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by the requisite basic national fee; an English translation of the international application as filed; a substitute specification and a first preliminary amendment.

On 17 May 2007, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 06 July 2007, applicant responded with the present petition.

DISCUSSION

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) the fee set forth in 37 CFR 1.17(h); and
- (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and
- (4) any new oath or declaration required by paragraph (f) of this section.

Applicant has satisfied items 1 and 2. Item 3 does not apply to the instant application.

Regarding item 4, applicant has included a combined declaration and power of attorney signed by the two inventors listed on the published international application, as well as, the inventor being added, Ms. Karina Candrian. However, there is a discrepancy as to the name of the first named inventor. The published international application identifies the inventor as Ruth Forrer while the declaration lists and has been signed by Ruth Iaconi-Forrer. As such, the declaration cannot be accepted at this time.

As explained in the Manual of Patent Examining Procedure (MPEP) section 605.04(c):

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

In light of the above, it is not possible to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required.

Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read 'Derek A. Putonen', is positioned above the typed name.

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